



the dtic

Department:
Trade, Industry and Competition
REPUBLIC OF SOUTH AFRICA

THE NATIONAL ASSEMBLY

QUESTION FOR WRITTEN REPLY

QUESTION NO. 1083

Mr M Khoza (EFF) to ask the Minister of Trade, Industry and Competition:

Given the rise in illicit trade and its impact on jobs and local industries, what decisive measures has his department implemented to protect rural economies and small manufacturers from unfair competition and market distortion? NW1213E

REPLY:

Illicit trade undermines the South African economy, including rural economies and small manufacturers. To protect these vulnerable economic actors from unfair competition and market distortion, the Department and its entities work within the existing broader legislative and regulatory framework to combat illicit trade in the Republic of South Africa. The South African Revenue Services (SARS), under the National Treasury is the key agency governing the controls of illicit trade.

Many sectors heavily affected by illicit trade—such as clothing and textiles, agro processing, fishery products, cement, steel, and Fast-Moving Consumer Goods are also those in which rural economies and small manufacturers operate.

The existing laws – administered by various government departments and the agencies – to combat illicit trade in the Republic are summarised below:



Law	Purpose	Illicit Trade Aspects Covered
Customs and Excise Act, 1964 (Act No. 91 of 1964)	Controls import/export of goods, collection of duties and taxes	Prevents smuggling, allows seizure of illegal or undeclared goods, and regulates controlled goods
Customs Control Act, 2014 (Act No. 31 of 2014)	Modernises border and customs enforcement	Improves tracking and monitoring of goods and border movement
Customs Duty Act, 2014 (Act No. 30 of 2014)	Regulates the application and collection of customs duties	Targets under-invoicing, misdeclaration, and tax evasion in trade
Counterfeit Goods Act, 1997 (Act No. 37 of 1997)	Criminalises manufacture, possession, or sale of counterfeit goods	Specifically targets illicit trade in fake goods infringing intellectual property (e.g. brands, copyrights) Enables seizure, detention, and destruction of counterfeit goods; empowers SAPS, Customs, and designated inspectors to investigate and prosecute offenders.
International Trade Administration Act, 2002	Manages import/export permits and controls	Prevents trade in restricted/prohibited goods and helps enforce international trade standards
Companies Act, 2008	All companies must now record and file information about their beneficial owners—individuals who ultimately own or exercise	Companies Amendment Act of 2022, enacted through the General Laws (Anti-Money Laundering and Combating Terrorism Financing)



Law	Purpose	Illicit Trade Aspects Covered
	effective control (5% or more of shares or voting rights)	Amendment Act, is a direct response to illicit trade and financial crimes. The primary mechanism for combating this is the establishment of a Beneficial Ownership (BO) register to increase transparency and expose the ultimate human beneficiaries of companies.
National Regulator for Compulsory Specifications Act, 2008	Ensures that products made available for sale meet the minimum requirements. Imported and locally manufactured goods must comply with the minimum safety, health, and environmental requirements	The NRCS scope covers all regulated products to which a compulsory specification applies. The compulsory specifications are within the following industries: a) Automotive b) Foods and Associated products where in the scope covers fish and fishery products, processed meats and canned meat c) Electro-technical d) Chemicals, Material and Mechanicals covering chemicals, detergents, fire producing devices, personal protective equipment and cement



Law	Purpose	Illicit Trade Aspects Covered
		<p>Section 13 of the NRCS Act provides the legal basis for the Minister to declare a compulsory specification</p> <p>Section 14 and 15 of the NRCS Act – provides for enforcement of the Compulsory Specifications:</p> <p>Section 14 of the NRCS Act:- No person may import, sell or supply a commodity, product or service to which a compulsory specification applies, except in accordance with that specification.</p> <p>Section 15 of the NRCS Act:- If the National Regulator finds that a commodity or product referred does not conform to the compulsory specification concerned, the NRCS may (a) take action to ensure the recall commodity or product; (b) direct in writing that the importer returns it to its country of origin; or (c) direct in writing that the consignment or batch of the</p>



Law	Purpose	Illicit Trade Aspects Covered
		<p>article concerned be confiscated, destroyed or dealt with in such other manner that the NRCS may deem fit</p>
<p>Consumer Protection Act, 2008</p>	<p>The applicable legislation is the Consumer Protection Act, 2008 (Act No. 68 of 2008) (CPA). The purpose of the CPA is, amongst others to protect consumers from unconscionable, unfair, unreasonable, unjust or otherwise improper trade practices. The NCC uses the CPA provisions together with other “public regulations” to ensure the combatting of illicit goods.</p>	<p>Section 24 of the CPA requires importers, manufacturers and suppliers to apply trade description on goods so that consumers can be able to exercise their right to choose the type of goods that they are buying. Regulation 6 of the CPA prohibits the importation of Clothing, Textile, Footwear and Leather (CTFL) goods that are non-compliant with section 24 of the CPA. Regulation 6 also clarify as to how trade description should be applied, and which goods are exempted from compliance with section 24 of the CPA.</p> <p>Section 55 of the CPA entrenches the rights of consumers to receive goods that are safe and of good quality. Any goods that do not comply with standards set out under the Standards Act 29 of</p>



Law	Purpose	Illicit Trade Aspects Covered
		1993 are deemed not to be safe and or of good quality in terms of section 55 of the CPA.
Prevention of Organised Crime Act, 1998 (Act No. 121 of 1998)	Addresses organised crime and criminal networks	Targets racketeering, smuggling syndicates, and money laundering linked to illicit trade.
<p>General Laws (Anti-Money Laundering and Combating Terrorism Financing) Amendment Act, 2022</p> <p>Trade Marks Act, 1993 (Act No. 194 of 1993)</p>	<p>Strengthens AML/CTF enforcement</p> <p>Provides civil and criminal remedies against unauthorised use of registered trademarks.</p>	<p>Helps trace and stop financial flows that support illicit trade activities</p> <p>To provide for the registration and protection of trade marks, thereby enabling businesses to distinguish their goods or services in the market, secure exclusive rights to their brands, and prevent others from using identical or confusingly similar marks. The Act allows for the creation of registered intangible property, facilitates licensing and assignment, and provides legal grounds for action against infringement and counterfeiting, ultimately ensuring brand integrity and consumer trust.</p>



Law	Purpose	Illicit Trade Aspects Covered
Copyright Act, 1978 (Act No. 98 of 1978)	Criminalises unauthorised reproduction and distribution of creative works, supporting enforcement against piracy.	The Act protects original literary, musical, dramatic, and artistic works, computer programs, films, and other original works, offering rights to creators and outlining exceptions like fair dealing for purposes like teaching and quotation.
Criminal Procedure Act, 1977 (Act No. 51 of 1977)	Provides the procedural framework for investigation, seizure, and prosecution of offences under the above laws.	To provide for procedures and related matters in criminal proceedings, outlining every aspect of the criminal justice process from arrest and search to trial, verdict, sentence, and appeal.

The Department through the various Master Plans recognised and highlighted illicit trade as one of the key threats to the sustainability of the domestic manufacturing industry and jobs. To this end, a number of interventions have been made to detect, prevent and reduce illicit activity across various value chain in partnership with the South African Revenue Services (SARS) as a custodian of the various legislation provisions to address the illicit trade. **the dtic** employs various strategies and measures to detect and prevent illicit trade, and these include:

- Given the adverse effects of illicit trade and customs fraud on the South African economy, the former Minister of Trade, Industry and Competition, Honourable Minister E. Patel and the Commissioner for SARS, Mr. E. Kieswetter in June 2019 reviewed government's approach in addressing illicit trade. Subsequently, the Inter Agency Working Group (IAWG) on Illicit Trade was established on the 3rd of July 2019.



- The purpose of the IAWG is to combat illicit trade in a comprehensive whole of government approach. IAWG is chaired by SARS with senior officials from **the dtic**, National Treasury and International Trade Administration Commission of South Africa (ITAC). The IAWG meets on a monthly basis. Three workstreams (clothing, textile, leather and footwear steel Industry (scrap metal) and gold) were established to combat illicit trade in order to achieve immediate impact in those industries.
- Inter-Agency Coordination: Working with SARS Customs, SAPS, the National Regulator for Compulsory Specifications (NRCS) and ITAC to identify, intercept, and seize illicit goods.
- Risk-Based Surveillance: Targeting high-risk sectors such as tobacco, alcohol, clothing and textiles, and steel.
- Policy and Advocacy: Strengthening penalties and tightening standards to close regulatory loopholes exploited by illicit operators.

Entity-Specific Measures

The Competition Commission

- a) The Competition Commission (“Commission) is established in terms of the Competition Act, 89 of 1998, as amended (“the Competition Act”), with the purpose of promoting and maintaining competition in South Africa.
- b) The Commission investigates complaints, assesses mergers, evaluates exemption applications, undertakes market inquiries and advocacy, in order to achieve equity and efficiency in the South African economy.
- c) Although the Commission was established with the purpose of promoting and maintaining competition in South Africa, it does not have a mandate to investigate or prosecute illicit trade.

The National Consumer Commission (NCC)

- (a) From the consumer protection point of view, illicit goods impact local industries, destroy jobs and undermine the government’s industrialisation goals. The Consumer Protection Act 68 of 2008 (CPA), with its primary mandate of protecting consumers, equally provides a regulatory framework to remove distortions in markets caused by non-compliant suppliers.



- (b) Section 55 of the CPA requires that goods supplied or marketed to consumers must be reasonably suitable for the purposes for which they are generally intended. In addition, Section 55(2)(b) and (d) of the CPA provides every consumer with the right to receive goods that are of good quality and free of any defects and comply with any applicable standards set under the Standards Act (now Act 8 of 2008), or any other public regulation. Section 24 of the CPA also provides a framework for product labelling and trade descriptions. The CPA is therefore relevant in dealing with illicit trade.
- (c) To give effect to the mandate of CPA, the NCC further collaborates with other authorities, including Environmental Health Practitioners in various Municipalities, Metro Police, SAPS, SARS, BMA, NRCS, SABS, NMISA, various Provincial Consumer Affairs or Protector Offices, regulators and other stakeholders.
- (d) In this regard, the NCC frequently conducts market monitoring nationwide and enforces the law against non-compliant suppliers, including in rural communities.
- (e) Identified common contraventions of the CPA include the following practices that undermine legitimate businesses and lead to unfair competition:
 - (i) Suppliers selling products with date markings past the sell-by or use-by date;
 - (ii) Suppliers not issuing proof of purchase (receipts);
 - (iii) Suppliers selling sub-standard, low-quality and unsafe products; and
 - (iv) Goods not labelled in accordance with the CPA (e.g. labelled in foreign languages, with unclear or no information on ingredients).
- (f) In the 2025/26 financial year to date, the NCC acted against at least 183 non-compliant suppliers of goods across South Africa after uncovering numerous contraventions of the CPA, including the prevention of non-complainant Clothing, Textile, Footwear and Leather goods from entering the South African



market, supplying expired foods and supplying poorly labelled goods. These are steps taken to rid the market of non-compliant products.

- (g) To further curb illicit goods from the market and the rise of non-compliant and substandard goods, the Minister is considering developing, under the CPA, track-and-trace regulations for goods targeting non-compliant imported and domestically produced goods.

The National Regulator for Compulsory Specifications (NRCS)

- a) NRCS is utilising the 80/20 principle, where 80% of the inspections are conducted at source (ports of entry, manufacturers and importers premises) while 20% of the focus is on retailers.
- b) The NRCS has an MOU with SARS and work with SARS at the port of entries to minimise the risk of non-compliant products being imported in to the country.
- c) NRCS Market Surveillance Activities are centred on two elements:
- Pre-market Approvals – Regulated high risk products need to be pre-approved before the product is made available for sale or imported in to the republic. The NRCS therefore approves the type of product or the model and the manufacturer or importer must ensure on-going compliance. Failure to comply will lead to a withdrawal of the approval granted.
 - Market Surveillance Inspections – Market surveillance inspections are conducted at Ports of Entries, Manufacturer Premises, Distribution Centres, retailers as well as online platforms. Market surveillance inspections are conducted to reduce the availability of non-compliant products in the market or remove any non-compliant products on the market. The NRCS on-site surveillance activities include, enforcement, investigations, testing of products, awareness briefings and communication.
- d) The NRCS has implemented the Risk based Approach to market surveillance inspections. In essence the NRCS is targeting high risk products and known areas of non-compliance.



- e) NRCS has commenced with a pilot project in 2025/26 on remote inspections in conjunction with the South African International E-Commerce Association (SAIEA). NRCS is also training online platforms operating in South Africa in identifying non-compliant products and cooperating with them to delist such products.
- f) The NRCS identified a number of non-compliant products especially through investigations and targeted market surveillance inspections. During the 2024/25 FY products worth more than R700 million were identified as non-complaint across various industries.

The Companies and Intellectual Property Commission (CIPC)

CIPC's anti-illicit trade strategy operates on three integrated levels:

- Capacity Building for Enforcement Partners - training programmes for SAPS, SARS Customs, NPA, and inspectors focus on IP enforcement, correct seizure procedures, and prosecution. International collaboration with WIPO, WCO, and INTERPOL enhances investigative capabilities.
- Education and Public Awareness - outreach to rights holders and business sectors promotes IP registration and enforcement. Public campaigns highlight the risks of counterfeit goods and their socio-economic impact. Partnerships with SALBA, PASA, and CGCSA support sector-specific compliance.
- Strategic Coordination and Intelligence Sharing - CIPC chairs multi-agency task teams to set priorities, coordinate operations, and share intelligence. SOPs are developed to streamline enforcement, and pilot projects integrate lessons learned into future operations.

Customs Enforcement

- The incorporation of the steel sector as a priority under the Inter-Agency Working Group, co-chaired with SARS and SAPS, to improve monitoring of steel imports.
- Collaboration with the SARS on customs enforcement, where stricter import verification processes have been established to prevent mis-declaration, under-



valuation and under-invoicing. The Reference Price risk rule was activated in August 2018 covering several tariff subheadings wherein the identification of tariff subheadings as well as the setting of Reference Prices was done in consultation with industry and labour.

Industry/Labour and government collaboration

- Under the Steel Masterplan, a Local Content and Compliance Unit (LCCU) was established, whose mandate amongst others is to investigate suspected non-compliance to designated products and other localisation imperatives; and to refer the findings of investigations and make recommendations to the respective organ of state or any other body for action.
- Awareness campaigns with industry bodies to promote compliance and reporting of illicit activities

Trade Remedies and Policy Instruments

- Application of safeguard duties, tariffs, and anti-dumping measures where illicit imports at volumes and prices that cause injury to the local steel manufacturing. ITAC is currently reviewing several tariff lines in the steel sector as a measure to assist the domestic industry value chain in achieving sustainability and competitiveness at the back of the current geopolitical climate. This process, will also involve further import control and surveillance over 'target' products like thin gauge steel products which have safety implications.
- ITAC has also in the last eighteen months participated in joint operations with other law enforcement agencies bringing to bear its enforcement experience on restricted or controlled goods at the ports of entry and exit.
- Continuous monitoring of import patterns by ITAC to detect dumping or under-declaration, and projects are underway to increase the use of modern tools for pattern recognition and real time data analysis to strengthen trade monitoring.

Standards Enforcement

- Joint inspections with the NRCS, SARS and industry of imported steel at ports and retail outlets.



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- Enforcement against sub-standard steel imports.
- Market Surveillance Inspections by the NRCS

Investigations and prosecutions

Where there is prohibited conduct that the NCC confirms via investigations and there are neither dilatory nor absolute defences, the perpetrators are prosecuted. Conclusion of such cases depends on the legal posture that transgressing suppliers take, as some become remorseful and settle. Others take their chances. NCC prosecutions, including issuance of Compliance Notices, occur in relation to complaint-based investigations as well as a result of market monitoring inspections.

Port of Entry Inspections and Investigation - together with **the dtic**, Industry Associations, various **dtic** entities including the SABS and SARS Customs, the NCC actively participates in the CTFL Forum. In this area i.e. the R-CTFL, **the dtic**, NCC and SARS Customs have an arrangement for SARS to inspect and detain illicit goods imported into the Republic, where there is a mutually agreed P&R List of Goods. These are flagged and where they are non-compliant with the CPA, the 2011 CPA Regulations, and various Standards at the time of import into the Republic, SARS Customs detains these, and the NCC initiates the enforcement process. This supports the R-CTFL Master Plan of **the dtic**. To ensure comprehensive enforcement in this area, the NCC also has cooperation arrangements with the Border Police and the BMA, with the latter at inception stage(s).

Similarly, the NRCS also does port of entry enforcement in collaboration with SARS, the BMA, SAPS and other governmental agencies. NRCS collaborates with the Authorised Economic Operator (AEO) model in stoppage and inspection of containers.

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